

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

FILED
DEC 17 2008
PATRICK E. DUFFY, CLERK
By DEPUTY CLERK, MISSOULA

UNITED STATES OF AMERICA,

CR 08-09-M-DWM

Plaintiff,

vs.

FINDINGS & RECOMMENDATION
CONCERNING PLEA

BRETT TATE,

Defendant.

The Defendant, by consent, has appeared before me under Fed. R. Crim. P. 11 and has entered a plea of guilty to one count of wire fraud in violation of 18 U.S.C. § 1343 (Count VII) as set forth in the Indictment. In exchange for Defendant's plea, the United States has agreed to dismiss Counts III-VI of the Indictment.

After examining the Defendant under oath, I have made the following determinations:

1. That the Defendant is fully competent and capable of entering an informed and voluntary plea,
2. That the Defendant is aware of the nature of the charges against him and consequences of pleading guilty to the charges,
3. That the Defendant fully understands his constitutional rights, and the extent to which he is waiving those rights, by

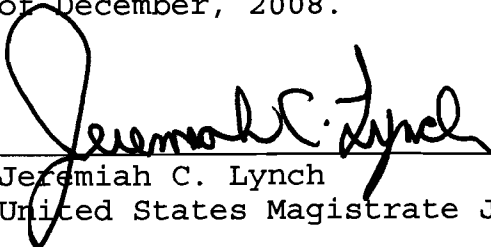
pleading guilty, and,

4. That the plea of guilty is a knowing and voluntary plea, supported by an independent basis in fact sufficient to prove each of the essential elements of the offense charged.

The Court further concludes that the Defendant had adequate time to review the Plea Agreement with counsel, that he fully understands each and every provision of the agreement and that all of the statements in the Plea Agreement are true. Therefore, I recommend that the Defendant be adjudged guilty of Count VII of the Indictment, and that sentence be imposed.¹ I further recommend that Counts III-VI of the Indictment be dismissed.

This report is forwarded with the recommendation that the Court defer a decision regarding acceptance until the Court has reviewed the Plea Agreement and the presentence report.

DATED this 17th day of December, 2008.


Jeremiah C. Lynch
United States Magistrate Judge

¹ Objections to these Findings and Recommendation are waived unless filed and served within ten (10) days. 28 U.S.C. § 636(b)(1)(B); Fed. R. Crim. P. 59(b)(2).